

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

RANDALL A. MILLER,

Plaintiff,

v.

RANDY COBB, U.S. MARSHALS
SERVICE and DOUG MAIER,

Defendants.

Case No. 18-cv-624-JPG-DGW

MEMORANDUM AND ORDER

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 22) of Magistrate Judge Donald J. Wilkerson recommending that the Court dismiss this case with prejudice pursuant to Federal Rule of Civil Procedure 41(b) for plaintiff Randall A. Miller’s failure to prosecute.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. The Court will, however, dismiss this case without prejudice rather than with prejudice. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 22);
- **DISMISSES** this case **without prejudice** for failure to prosecute pursuant to Rule 41(b); and

- **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: November 28, 2018

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE